

CHAPTER 209

GOVERNMENT - STATE

SENATE BILL 22-174

BY SENATOR(S) Buckner, Donovan, Gonzales, Moreno;
also REPRESENTATIVE(S) Kennedy, Snyder.

AN ACT

CONCERNING THE CRITERIA TO BE CONSIDERED IN A SUNSET REVIEW HEARING.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, 24-34-104, **amend** (6)(b) as follows:

24-34-104. General assembly review of regulatory agencies and functions for repeal, continuation, or reestablishment - legislative declaration - repeal.

(6) (b) In the hearings, the determination as to whether an agency has demonstrated a public need for the continued existence of the agency or function and for the degree of regulation it practices is based on the following factors, among others:

(I) Whether regulation OR PROGRAM ADMINISTRATION by the agency is necessary to protect the public health, safety, and welfare; ~~whether the conditions that led to the initial regulation have changed; and whether other conditions have arisen that would warrant more, less, or the same degree of regulation;~~

(II) WHETHER THE CONDITIONS THAT LED TO THE INITIAL CREATION OF THE PROGRAM HAVE CHANGED AND WHETHER OTHER CONDITIONS HAVE ARISEN THAT WOULD WARRANT MORE, LESS, OR THE SAME DEGREE OF GOVERNMENTAL OVERSIGHT;

~~(H)~~ (III) If ~~regulation~~ THE PROGRAM is necessary, whether the existing statutes and regulations establish the least restrictive form of ~~regulation~~ GOVERNMENTAL OVERSIGHT consistent with the public interest, considering other available regulatory mechanisms; ~~and whether agency rules enhance the public interest and are within the scope of legislative intent;~~

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

(IV) IF THE PROGRAM IS NECESSARY, WHETHER AGENCY RULES ENHANCE THE PUBLIC INTEREST AND ARE WITHIN THE SCOPE OF LEGISLATIVE INTENT;

~~(III)~~ (V) Whether the agency operates in the public interest and whether its operation is impeded or enhanced by existing statutes, rules, procedures, and practices and any other circumstances, including budgetary, resource, and personnel matters;

~~(IV)~~ (VI) Whether an analysis of agency operations indicates that the agency OR THE AGENCY'S BOARD OR COMMISSION performs its statutory duties efficiently and effectively;

~~(V)~~ (VII) Whether the composition of the agency's board or commission adequately represents the public interest and whether the agency encourages public participation in its decisions rather than participation only by the people it regulates;

(VIII) WHETHER REGULATORY OVERSIGHT CAN BE ACHIEVED THROUGH A DIRECTOR MODEL;

~~(VI)~~ (IX) The economic impact of ~~regulation~~ THE PROGRAM and, if national economic information is not available, whether the agency stimulates or restricts competition;

~~(VII)~~ (X) IF REVIEWING A REGULATORY PROGRAM, whether complaint, investigation, and disciplinary procedures adequately protect the public and whether final dispositions of complaints are in the public interest or self-serving to the profession OR REGULATED ENTITY;

~~(VIII)~~ (XI) IF REVIEWING A REGULATORY PROGRAM, whether the scope of practice of the regulated occupation contributes to the optimum use of personnel; ~~and whether entry requirements encourage affirmative action;~~

(XII) WHETHER ENTRY REQUIREMENTS ENCOURAGE EQUITY, DIVERSITY, AND INCLUSIVITY;

~~(IX)~~ (XIII) IF REVIEWING A REGULATORY PROGRAM, whether the agency, through its licensing or certification process, imposes any sanctions or disqualifications on applicants based on past criminal history and, if so, whether the sanctions or disqualifications serve public safety or commercial or consumer protection interests. To assist in considering this factor, the analysis prepared pursuant to subsection (5)(a) of this section must include data on the number of licenses or certifications that the agency denied based on the applicant's criminal history, the number of conditional licenses or certifications issued based upon the applicant's criminal history, and the number of licenses or certifications revoked or suspended based on an individual's criminal conduct. For each set of data, the analysis must include the criminal offenses that led to the sanction or disqualification.

~~(X)~~ (XIV) Whether administrative and statutory changes are necessary to improve agency operations to enhance the public interest.

SECTION 2. Act subject to petition - effective date. This act takes effect

October 16, 2022; except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within the ninety-day period after final adjournment of the general assembly, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2022 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

Approved: May 25, 2022